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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
VOLKER HENNIGE, ET AL. : EXAMINER: RHEE, J. J.  
SERIAL NO: 10/524,665 :  
FILED: FEBRUARY 11, 2005 : GROUP ART UNIT: 1795  
FOR: SEPARATOR-ELECTRODE UNIT :  
FOR LITHIUM-ION BATTERIES,  
METHOD FOR THE PRODUCTION AND  
USE THEREOF IN LITHIUM BATTERIES

REPLY BRIEF

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

The following Reply Brief is in reply to the Examiner's Answer dated September 5, 2008 (Answer).

The statement of the Grounds of Rejection (Answer at 3-6), as well as the first two paragraphs in the Response to Argument, except for the last sentence of the first paragraph (Answer at 7), are identical to the statement and responses in the Final Rejection, which have already been responded to in the Appeal Brief. Thus, the following is in reply to said sentence, and the two paragraphs following the first two paragraphs in the Response to Argument (Answer at 7-8).

The Examiner finds that the binder is disclosed as preferred and thus not required in Yamashita et al (Answer at 7). In reply, Applicants have already responded to this finding in the Appeal Brief, noting that no other means besides a binder is disclosed in Yamashita et al for binding their particles together.

In response to Applicants' argument that there is neither disclosure nor suggestion in Penth et al that their catalytically active permeable composite material would have any utility in combination with an electrode to form a separator electrode unit capable of functioning in a lithium battery as a separator electrode unit, the Examiner finds that Penth et al "teaches that the composite material can be used as a catalytically active membrane electrode (abstract) thus the composite material would have utility in combination with electrode capable of functioning in a lithium battery" (Answer at 8).

In reply, this finding has essentially been responded to in the Appeal Brief.

In response to Applicants' argument with regard to the separate patentability of Claims 7-9 that Yamashita et al suggests nothing with regard to a coating as part of their separator layer, let alone a coating with particles having the capability of performing a shutdown function, the Examiner finds that "Yamashita et al. discloses at least one layer of an aggregate form of particles of at least one insulating substance, therefore there can be two layers of particles on the separator wherein one layer can be considered the coating with particles having the capability of performing a shutdown function since Yamashita et al. discloses the same particles desired by the applicant to perform the shutdown function" (Answer at 8).

In reply, and as already responded to in the Appeal Brief, the particles of the insulating substance are not a separate coating.

Applicants continue to maintain that the rejection should be REVERSED.

Respectfully submitted,

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